

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-1208V

Filed: June 4, 2015

MICHAEL LERG,

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Petitioner,

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Damages Decision Based on Proffer;
Meningococcal Vaccine;
Shoulder Injury Related to Vaccine
Administration ("SIRVA");
Special Processing Unit ("SPU")

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Respondent.

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

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*Maximillian J. Muller, Esq., Muller Brazil, LLP, Philadelphia, PA, for petitioner.
Christine Becer, Esq., U.S. Department of Justice, Washington, DC for respondent.*

DECISION AWARDING DAMAGES¹

Vowell, Chief Special Master:

On December 16, 2014, Michael Lerg filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, et seq.,² [the "Vaccine Act" or "Program"]. Petitioner alleged that he suffered a shoulder injury which was caused by the meningococcal vaccine he received on May 6, 2014. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On May 29, 2015, I issued a ruling on entitlement, finding petitioner entitled to compensation. On June 4, 2015, respondent filed a proffer on award of compensation ["Proffer"] indicating petitioner should be awarded \$125,000.00. Proffer at 1. According to respondent's Proffer, petitioner agrees to this proposed amount. *Id.*

Pursuant to the terms stated in the attached Proffer, **I award petitioner a lump sum payment of \$125,000.00 in the form of a check payable to petitioner, Michael**

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

Lerg. This amount represents compensation for all damages that would be available under § 300aa-15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

s/Denise K. Vowell

Denise K. Vowell
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS

MICHAEL LERG,)
Petitioner,)
v.) No. 14-1208V
SECRETARY OF HEALTH AND) Chief Special Master Vowell
HUMAN SERVICES,) ECF
Respondent.)

)

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$125,000.00, which represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).¹ Petitioner agrees.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment of \$125,000.00 in the form of a check payable to petitioner. Petitioner agrees.

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

RUPA BHATTACHARYYA
Director
Torts Branch, Civil Division

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering.

VINCENT J. MATANOSKI
Deputy Director
Torts Branch, Civil Division

ALTHEA W. DAVIS
Senior Trial Attorney
Torts Branch, Civil Division

s/Christine Mary Becer
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Date: June 4, 2015